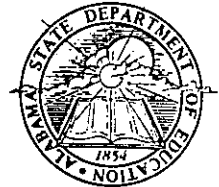




STATE OF ALABAMA
DEPARTMENT OF EDUCATION



Joseph B. Morton
Interim State Superintendent
of Education

Alabama
State Board
of Education

February 13, 2004

MEMORANDUM

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Joseph B. Morton
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Executive Officer

TO: City and County Superintendents of Education

FROM: Joseph B. Morton 
Interim State Superintendent of Education

RE: Federal Laws, State Laws, and SDE Guidance Relating to School Health Services

As we work together to find solutions to issues surrounding a growing number of students needing medically related care and inadequate state funds to address the related personnel needs, we concluded that a concise historical review of the issues may be helpful. The following information references federal and state laws as well as State Department of Education (SDE) guidance relating to School Health Services:

- The regulation implementing Section 504 of the Rehabilitation Act of 1973, as amended, at 34 C.F.R. Section 104.33 requires that a recipient that operates a public elementary or secondary education program provide each qualified person with a disability in its jurisdiction a free appropriate public education (FAPE), regardless of the nature or severity of the person's disability. (Section 504 of the Rehabilitation Act of 1973)
- The regulation of Section 504 of the Rehabilitation Act of 1973, as amended, at 34 C.F.R. Section 104.37(a)(1) and (2) states that a recipient shall provide non-academic and extracurricular services and activities in such a manner as is necessary to afford students with a disability an equal opportunity for participation in such services and activities. These services may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipient, referrals to agencies that provide assistance to individuals with a disability and employment of students. (Section 504 of the Rehabilitation Act of 1973)
- Title II of the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability by public entities, regardless of whether the public entities receive federal funds. (Americans with Disabilities Act of 1990)
- The Alabama Nurse Practice Act, Code of Alabama, 1975, § 34-21-1 et seq., provides that in order to safeguard life and health, licensure is required for any person practicing or offering to practice professional nursing or practical nursing in this state, for compensation. The Act creates a Board of Nursing with regulatory authority and dictates the Board's composition and qualifications, methods of appointment, and term of office. The Act specifies Board functions and duties, thus providing for the implementation of the Nurse Practice Act through the adoption of rules and regulations.

- Invasive procedures, including but not limited to, tracheotomy care, gastrostomy tube feeding, and medication administration by injection or rectal route shall be provided only by a registered nurse or by a licensed practical nurse and with the written authorization from the physician and parent. [Dr. Ed Richardson correspondence dated January 16, 2001, and December 12, 2001; Alabama Board of Nursing Administrative Code 1975, §§ 34-21-1(3)(a), 34-21(3)(b), 34-21-2(c)(21)]
- The Alabama Board of Nursing revised its administrative code to include guidance regarding the delegation of specific nursing tasks by school nurses to unlicensed assistive personnel in school settings. The revised code permits the registered school nurse to delegate to unlicensed assistive personnel the provision of oral, topical, ear, eye, nasal, and inhalation medications to students when specific conditions are met. [Dr. Ed Richardson correspondence dated December 12, 2001, May 17, 2002, and March 24, 2003; Alabama Board of Nursing Administrative Code 1975, §§ 34-21-1(3)(a), 34-21-1(3)(b), 34-21-2(c)(21)]
- Act 98-672, as amended by Act 2001-639, by the Alabama Legislature requires that each local board of education employ a registered school nurse using state funds beginning with the 1999-2000 school year. The State Board of Education shall employ a School Nurse Consultant, who shall be a registered nurse, to provide supervision of programs statewide and implement school nursing programs as established by the State Board of Education. The ratio language was amended in the Fiscal Year 2002 Education Budget (Act 2001-639) and states the following, "To be distributed so that each school system shall receive one nurse and one additional nurse for each full increment of 11,500 students". (Governor Fob James signed into law by Act 91-672 on May 6, 1998, and Act 2001-639 was signed into law during the 2001 Regular Session of the Alabama Legislature.)
- Act 2003-271 requires that each local board of education permit the self-administration of asthma medication by students upon written parental and medical authorization. (Governor Bob Riley signed into law by Act 2003-27 on June 18, 2003)
- All public school students shall receive spinal screening for the purposes of detecting the development of scoliosis and for referral of those children with positive screening to a trained medical professional. (Code of Alabama, 1975, §16-29; Senate Joint Resolution 62)
- There is a meeting scheduled with the Alabama Board of Nursing for March 4, 2004, that will include local school nurses and a representative from the SDE. The goal of the meeting is to discuss the training of unlicensed assistive personnel in school settings and to determine if the 24-hour training time is too long and if it can be reduced considerably.

I hope this information has been helpful. If there are any questions, please do not hesitate to contact me or Mrs. Martha Holloway, State School Nurse Consultant, at (334) 242-8199 or by e-mail at mholloway@alsde.edu.

JBM/MSH/BMM

cc: State Board of Education Members

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